

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

AMERICO ESTEPAN RAMIREZ,

Plaintiff,

v.

**DEVCON INTERNATIONAL CORP., M21
INDUSTRIES, INC., formerly know as the
companies MARK 21 INDUSTRIES, INC.,
RENTAL EQUIPMENT COMPANY, INC.,
CONTROLLED CONCRETE PRODUCTS,
AND MARK 21 INDUSTRIES, V.I. CEMENT
& BUILDING PRODUCTS, INC. d/b/a
MARK 21,**

Defendants.

2006-CV-0109

**TO: Lee J. Rohn, Esq.
James L. Hymes, Esq.**

ORDER GRANTING PLAINTIFF'S RENEWED MOTION TO COMPEL

THIS MATTER came before the Court upon Plaintiff's Renewed Motion to Compel (Docket No. 34). Defendants Devcon International, Corp., Controlled Concrete Products, and V.I. Cement & Building Products, Inc., filed a response to said motion, and Plaintiff filed a reply thereto.

Plaintiff states that he withdrew his initial motion to compel at the request of Defendant Devcon International Corp. Motion at 1. According to Plaintiff, said Defendant

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also requested two (2) additional weeks to respond to discovery. *Id.* Plaintiff further represents that the parties met and conferred on June 3, 2008, wherein said Defendant stated that it would respond to Plaintiff's Demand For Production of Documents within thirty (30) days, but failed to do so. Motion at 3. In response, responding Defendants do not dispute Plaintiff's allegations. Responding Defendants only ask the Court to stay discovery pending resolution of their motion for summary judgment.

The Court notes that responding Defendants, in direct contravention to this Court's numerous directives, combined their motion for summary judgment and motion for stay of discovery into one filing. Until said Defendants re-file their motion for stay of discovery, their request is not properly before this Court for consideration; and, unless and until the Court rule upon such motion for stay, discovery is not stayed. The Court further notes that Plaintiff has filed a Rule 56(f) motion, which also remains pending. In the event that such Rule 56(f) motion is granted, responding Defendants will be compelled to engage in discovery pursuant to such order.

Based upon the representations of the parties, the Court finds that Defendant Devcon International, Corp., has failed to respond to Plaintiff's properly propounded Demand For Production of Documents within the time allowed. Consequently, the Court will grant the motion.

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WHEREFORE, it is now hereby **ORDERED**:

1. Plaintiff's Renewed Motion to Compel (Docket No. 34) is **GRANTED**.
2. Defendant Devcon International, Corp., shall serve upon counsel for Plaintiff, within ten (10) days from the date of entry of this order, its responses to Plaintiff's Demand For Production of Documents.

ENTER:

Dated: October 2, 2008

_____/s/
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE